

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**CANYON FURNITURE COMPANY
PLAINTIFF,**

v.

**DANIEL RUEDA SANCHEZ, JULIO
ALFONSO RODRIGUEZ VALDEZ,
FURNITURE INDUSTRIES SERVICES,
INC., & DISENOS INNOVADORES DE
BAJA CALIFORNIA, S. de R.L. de C.V.
DEFENDANTS.**

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CIVIL ACTION NO. 5:18-cv-00753

DEMAND FOR JURY TRIAL

NOTICE OF REMOVAL

Daniel Rueda Sanchez, Julio Alfonso Rodriguez Valdez (together, “Individual Defendants”) along with Furniture Industries Services, Inc., and Disenos Innovadores de Baja California, S. de R.L. de C.V. (together, “Corporate Defendants” and collectively “Defendants”), Defendants in the above styled action brought by Canyon Furniture Company (“Plaintiff”), give notice of the removal of this action from the District Court of Bexar County, Texas 73rd Judicial District Court:

INTRODUCTION

1. Defendants desire to exercise their rights under the provisions of 28 U.S.C. §§ 1441, *et seq.*, to remove this action from the State District Court of Bexar County, Texas, in which said action is now pending under the assigned style *Canyon Furniture Company v. Daniel Rueda Sanchez, Julio Alfonso Rodriguez Valdez (together, “Individual Defendants”), Furniture Industries Services, Inc., and Disenos Innovadores de Baja California, S. de R.L. de C.V.*, Civ. No. 2018-cv-12648.

2. Plaintiff filed the above referenced action on July 10, 2018.

3. Defendants have not been served.

4. Regardless, Defendants have properly filed this notice within 30 days of Plaintiff's attempted service.

5. There has been a TRO hearing without notice in the state court as of the date of this Notice of Removal.

6. The United States District Court for the Western District of Texas is the district court for the district within which the state court action is pending.

7. Plaintiff seeks in this action claims against Defendants for in excess of \$1,000,000.00.

8. Plaintiff seeks in this action claims for Unfair Competition - Statutory Misappropriation of Trade Secrets Texas Uniform Trade Secrets Act, Tex. Civ. Prac. & Rem. Code §§ 134A.001, et seq. against Defendants.

9. Plaintiff seeks in this action claims for Unfair Competition - Common Law Misappropriation against Defendants.

10. Plaintiff seeks in this action claims for Breach of Fiduciary Duty against Individual Defendants.

11. Plaintiff seeks in this action claims for Breach of Confidential Relationship against Individual Defendants.

12. Plaintiff seeks in this action claims for Breach of Duty of Loyalty against Individual Defendants.

13. Plaintiff seeks in this a Temporary Restraining Order against Defendants.

14. Plaintiff seeks in this action claims for damages.

15. Plaintiff seeks in this action claims for Attorney Fees, Costs and Interest.

16. Plaintiff seeks in this action claims against Defendants for “Monetary relief in excess of \$1,000,000.00.”

17. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

DIVERSITY JURISDICTION

Diversity of Citizenship

18. Diversity jurisdiction exists where the suit is between citizens of different states and the amount in controversy exceeds the statutorily prescribed amount, in this case \$ 75,000.¹

19. Diversity jurisdiction requires complete diversity of citizenship between Plaintiffs and Defendants.

20. Here, the sole Plaintiff is a Florida for-profit corporation whose principal place of business is in the State of Florida.

21. At the time of filing of this action, all other times and at the present, Daniel Rueda Sanchez is an individual and citizen of Mexico and resident of California and resides at 819 Chervil Ct., Chula Vista, CA 91910.

22. At the time of filing of this action, all other times and at the present, Julio Alfonso Rodriguez Valdez is an individual and citizen of Mexico and resident of Tijuana, Baja California, Mexico and resides at Circuito Loma Dorada #19525, Fraccionamiento Loma Dorada, Tijuana, BC, Mexico.

¹ See 28 U.S.C. § 1332(a).

23. At the time of filing of this action, all other times and at the present, Furniture Industries Services, Inc. ("FIS") is a California corporation having its principal place of business at 2493 Roll Drive 210-554, San Diego, CA 92154.

24. At the time of filing of this action, all other times and at the present, Disenos Innovadores de Baja California, S. de R.L. de C.V. ("Disenos") is a Mexican corporation located at Av. Roberto de La Madrid 1500-B Tijuana Baja California Norte 22170, with its principal place of business in Tijuana, Baja California, Mexico.

25. At the time of filing of this action, all other times and at the present, the Defendant individuals are a Mexican citizen residing in Mexico and a Mexican citizen residing in the state of California and the corporate defendants are a Mexican corporation with a principal place of business in Mexico and a California corporation with its principal place of business in the state of California and have complete diversity as to Plaintiff, a Florida Corporation with its principle places of business in the state of Florida.

26. Canyon Furniture Company was both at the time of the filing of this action, all other times and at present a citizen and a resident of the State of Florida.

27. The Amount in Controversy is Facially Evident upon Plaintiff's Filings

28. "The amount in controversy is ordinarily determined by the allegations of the complaint, or, where they are not dispositive, by the allegations in the notice of removal."²

29. Plaintiff plead a specific amount in controversy of in excess of \$1,000,000.00 in the PLAINTIFF'S ORIGINAL PETITION.

² Martin v. Franklin Capital Corp., 251 F.3d 1284, 1289 (10th Cir. N.M. 2001) (citing Laughlin v. Kmart Corp., 50 F.3d 871, 872 (10th Cir. Okla. 1995)).

30. Defendants' allegations may be established in the notice of removal, or by affidavit.³

31. Plaintiff seeks recovery for attorney's fees and costs under Tex. Civ. Prac. & Rem. Code § 134.005 and/or § 134A.005. Although costs are not a component of amount in controversy, attorney's fees awarded under state statutes are included.

32. If a state statute provides for attorney's fees, such fees are part of the amount in controversy.⁴

33. The attorney's fees for pursuing this case through verdict further increases Plaintiff's potential recovery, and thus the amount in controversy.

34. Plaintiff seeks in this action claims against Defendants for exemplary damages which may further inflate the Plaintiff's recovery.

35. Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with this Notice of Removal, and a copy of this Notice of Removal is being filed with the clerk of Bexar County, Texas, 73rd Judicial District Court.

36. Plaintiff demanded a jury in the state court action.

JURY DEMAND

37. Defendants hereby demand a trial by jury.

CONCLUSION

For the reasons stated above, in that Plaintiff's suit involves claims entirely within the Federal District Court's original diversity jurisdiction, Defendants ask the court to remove the

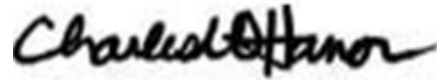
³ Allen v. R & H Oil & Gas Co., 63 F.3d 1326, 1335 (5th Cir. 1995).

⁴ Foret v. State Farm Bureau Life Ins. Co., 918 F.2d 534, 537 (5th Cir. 1990); *see also* 14A C. Wright & A. Miller, Federal Practice & Procedure § 3712, at 176 (2d ed. 1985).

action now pending in State District Court of Bexar County, Texas, Cause No. 2008-ci-12648 to the United States District Court for the Western District of Texas, San Antonio Division.

DATED this 20th day of July 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles W. Hanor". The signature is fluid and cursive, with the first name "Charles" and last name "Hanor" being clearly legible.

By: Charles W. Hanor
Texas Bar No. 08928800

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, the undersigned counsel for the Defendants, do hereby certify that I have this day, July 20, 2018, served a true and correct copy of the above and foregoing pleading by filing in ECF and by email and by fax to the following:

Donna Kay McKinney
Bexar County District Clerk
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